



February 15, 2001

HOUSE BILL No. 1949

DIGEST OF HB 1949 (Updated February 14, 2001 3:04 PM - DI 77)

Citations Affected: IC 16-18; IC 16-34; IC 16-37; IC 16-38; IC 25-1; IC 25-22.5; IC 25-23; IC 25-23.2; IC 34-6; IC 34-18; IC 34-30; noncode.

Synopsis: Licensure of midwives. Establishes the Indiana midwifery board. Sets qualifications for a licensed certified professional midwife (CPM). Requires the board to: (1) develop peer review procedures; (2) require the purchase of liability insurance as a condition for licensure when the board determines liability insurance is sufficiently available; and (3) adopt rules limiting the scope of practice of licensed certified professional midwives to nonhospital settings. Makes it a Class B misdemeanor to practice midwifery without a license. Allows the board to specify circumstances under which a licensed certified professional midwife may administer certain prescription drugs. Provides that a health care provider may not be held jointly or severally liable for the acts or omissions of a licensed certified professional midwife or a licensed physician who has a collaborative agreement with the midwife while the physician is assisting or collaborating with the midwife. Allows an employee, a student, an intern, a trainee, or an apprentice to act under the direction and supervision of a licensed certified professional midwife. Requires the office of Medicaid policy and planning to seek a waiver from the United States Department of Health and Human Services to allow Medicaid reimbursement to licensed certified professional midwives.

Effective: July 1, 2001.

Welch, Brown C, Kruzan, Kruse

January 17, 2001, read first time and referred to Committee on Public Health.
February 14, 2001, amended, reported — Do Pass.

HB 1949—LS 7301/DI 104+



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February 15, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

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HOUSE BILL No. 1949

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-163, AS AMENDED BY P.L.148-1999,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 163. (a) "Health care provider", for purposes of
4 IC 16-21 and IC 16-41, means any of the following:
5 (1) An individual, a partnership, a corporation, a professional
6 corporation, a facility, or an institution licensed or legally
7 authorized by this state to provide health care or professional
8 services as a licensed physician, a psychiatric hospital, a hospital,
9 a health facility, an emergency ambulance service (IC 16-31-3),
10 a dentist, a registered or licensed practical nurse, a **certified**
11 **nurse** midwife, a **licensed certified professional midwife**, an
12 optometrist, a pharmacist, a podiatrist, a chiropractor, a physical
13 therapist, a respiratory care practitioner, an occupational therapist,
14 a psychologist, a paramedic, an emergency medical technician, or
15 an advanced emergency technician, or a person who is an officer,
16 employee, or agent of the individual, partnership, corporation,
17 professional corporation, facility, or institution acting in the

HB 1949—LS 7301/DI 104+



- 1 course and scope of the person's employment.
- 2 (2) A college, university, or junior college that provides health
3 care to a student, a faculty member, or an employee, and the
4 governing board or a person who is an officer, employee, or agent
5 of the college, university, or junior college acting in the course
6 and scope of the person's employment.
- 7 (3) A blood bank, community mental health center, community
8 mental retardation center, community health center, or migrant
9 health center.
- 10 (4) A home health agency (as defined in IC 16-27-1-2).
- 11 (5) A health maintenance organization (as defined in
12 IC 27-13-1-19).
- 13 (6) A health care organization whose members, shareholders, or
14 partners are health care providers under subdivision (1).
- 15 (7) A corporation, partnership, or professional corporation not
16 otherwise qualified under this subsection that:
- 17 (A) provides health care as one (1) of the corporation's,
18 partnership's, or professional corporation's functions;
- 19 (B) is organized or registered under state law; and
- 20 (C) is determined to be eligible for coverage as a health care
21 provider under IC 34-18 for the corporation's, partnership's, or
22 professional corporation's health care function.
- 23 Coverage for a health care provider qualified under this subdivision is
24 limited to the health care provider's health care functions and does not
25 extend to other causes of action.
- 26 (b) "Health care provider", for purposes of IC 16-35, has the
27 meaning set forth in subsection (a). However, for purposes of IC 16-35,
28 the term also includes a health facility (as defined in section 167 of this
29 chapter).
- 30 (c) "Health care provider", for purposes of IC 16-36-5, means an
31 individual licensed or authorized by this state to provide health care or
32 professional services as:
- 33 (1) a licensed physician;
- 34 (2) a registered nurse;
- 35 (3) a licensed practical nurse;
- 36 (4) an advanced practice nurse;
- 37 (5) a ~~licensed~~ **certified** nurse midwife or a **licensed certified**
38 **professional midwife**;
- 39 (6) a paramedic;
- 40 (7) an emergency medical technician;
- 41 (8) an advanced emergency medical technician; or
- 42 (9) a first responder, as defined under IC 16-18-2-131.

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1 The term includes an individual who is an employee or agent of a
 2 health care provider acting in the course and scope of the individual's
 3 employment.

4 SECTION 2. IC 16-34-2-1.1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.1. An abortion shall
 6 not be performed except with the voluntary and informed consent of
 7 the pregnant woman upon whom the abortion is to be performed.
 8 Except in the case of a medical emergency, consent to an abortion is
 9 voluntary and informed only if the following conditions are met:

10 (1) At least eighteen (18) hours before the abortion and in the
 11 presence of the pregnant woman, the physician who is to perform
 12 the abortion, the referring physician or a physician assistant (as
 13 defined in IC 25-27.5-2-10), an advanced practice nurse (as
 14 defined in IC 25-23-1-1(b)), **a licensed certified professional**
 15 **midwife (as defined in IC 25-23.2-1-7) or a certified nurse**
 16 **midwife (as defined in ~~IC 34-18-2-19~~ IC 34-18-2-6.5)** to whom
 17 the responsibility has been delegated by the physician who is to
 18 perform the abortion or the referring physician has orally
 19 informed the pregnant woman of the following:

20 (A) The name of the physician performing the abortion.

21 (B) The nature of the proposed procedure or treatment.

22 (C) The risks of and alternatives to the procedure or treatment.

23 (D) The probable gestational age of the fetus, including an
 24 offer to provide:

25 (i) a picture or drawing of a fetus;

26 (ii) the dimensions of a fetus; and

27 (iii) relevant information on the potential survival of an
 28 unborn fetus;

29 at this stage of development.

30 (E) The medical risks associated with carrying the fetus to
 31 term.

32 (2) At least eighteen (18) hours before the abortion, the pregnant
 33 woman will be orally informed of the following:

34 (A) That medical assistance benefits may be available for
 35 prenatal care, childbirth, and neonatal care from the county
 36 office of family and children.

37 (B) That the father of the unborn fetus is legally required to
 38 assist in the support of the child. In the case of rape, the
 39 information required under this clause may be omitted.

40 (C) That adoption alternatives are available and that adoptive
 41 parents may legally pay the costs of prenatal care, childbirth,
 42 and neonatal care.

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1 (3) The pregnant woman certifies in writing, before the abortion
 2 is performed, that the information required by subdivisions (1)
 3 and (2) has been provided.

4 SECTION 3. IC 16-37-2-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this
 6 chapter, "person in attendance at birth" means one (1) of the following:

7 (1) A licensed attending physician.

8 (2) ~~An attending~~ **A licensed certified professional** midwife or a
 9 **certified** nurse midwife.

10 (3) Another individual who:

11 (A) holds a license of the type designated by the governing
 12 board of a hospital, after consultation with the hospital's
 13 medical staff, to attend births at the hospital; and

14 (B) is in attendance at the birth.

15 SECTION 4. IC 16-37-2-4 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. A local health officer
 17 may accept a certificate of birth presented for filing not more than four
 18 (4) years after the birth occurred if the attending physician, **certified**
 19 **nurse midwife, licensed certified professional** midwife, or other
 20 person desiring to file the certificate states the reason for the delay in
 21 writing. This statement shall be made a part of the certificate of birth.

22 SECTION 5. IC 16-38-4-9 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) Physicians,
 24 **certified** nurse midwives, **licensed certified professional midwives,**
 25 local health departments, and hospitals shall report each confirmed
 26 case of a birth problem to the registry not later than sixty (60) days
 27 after the birth. Information may be provided to amend or clarify an
 28 earlier reported case.

29 (b) A person required to report information to the registry under this
 30 section may use, when completing reports required by this chapter,
 31 information submitted to any other public or private registry or required
 32 to be filed with federal, state, or local agencies. However, the state
 33 department may require additional, definitive information.

34 (c) Exchange of information between state department registries is
 35 authorized. The state department may use information from another
 36 registry administered by the state department. Information used from
 37 other registries remains subject to the confidentiality restrictions on the
 38 other registries.

39 SECTION 6. IC 25-1-5-3, AS AMENDED BY P.L.24-1999,
 40 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2001]: Sec. 3. (a) There is established the health professions
 42 bureau. The bureau shall perform all administrative functions, duties,

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1 and responsibilities assigned by law or rule to the executive director,
2 secretary, or other statutory administrator of the following:

- 3 (1) Board of chiropractic examiners (IC 25-10-1).
- 4 (2) State board of dentistry (IC 25-14-1).
- 5 (3) Indiana state board of health facility administrators
- 6 (IC 25-19-1).
- 7 (4) Medical licensing board of Indiana (IC 25-22.5-2).
- 8 (5) Indiana state board of nursing (IC 25-23-1).
- 9 (6) Indiana optometry board (IC 25-24).
- 10 (7) Indiana board of pharmacy (IC 25-26).
- 11 (8) Board of podiatric medicine (IC 25-29-2-1).
- 12 (9) Board of environmental health specialists (IC 25-32).
- 13 (10) Speech-language pathology and audiology board
- 14 (IC 25-35.6-2).
- 15 (11) State psychology board (IC 25-33).
- 16 (12) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- 17 (13) Controlled substances advisory committee (IC 35-48-2-1).
- 18 (14) Committee of hearing aid dealer examiners (IC 25-20).
- 19 (15) Indiana physical therapy committee (IC 25-27).
- 20 (16) Respiratory care committee (IC 25-34.5).
- 21 (17) Occupational therapy committee (IC 25-23.5).
- 22 (18) Social worker, marriage and family therapist, and mental
- 23 health counselor board (IC 25-23.6).
- 24 (19) Physician assistant committee (IC 25-27.5).
- 25 (20) Indiana athletic trainers board (IC 25-5.1-2-1).
- 26 (21) Indiana dietitians certification board (IC 25-14.5-2-1).
- 27 (22) Indiana hypnotist committee (IC 25-20.5-1-7).
- 28 **(23) Indiana midwifery board (IC 25-23.2-2).**

29 (b) Nothing in this chapter may be construed to give the bureau
30 policy making authority, which authority remains with each board.

31 SECTION 7. IC 25-22.5-1-2 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) This article, as it
33 relates to the unlawful or unauthorized practice of medicine or
34 osteopathic medicine, does not apply to any of the following:

- 35 (1) A student in training in a medical school approved by the
- 36 board, or while performing duties as an intern or a resident in a
- 37 hospital under the supervision of the hospital's staff or in a
- 38 program approved by the medical school.
- 39 (2) A person who renders service in case of emergency where no
- 40 fee or other consideration is contemplated, charged, or received.
- 41 (3) Commissioned medical officers or medical service officers of
- 42 the armed forces of the United States, the United States Public

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- 1 Health Service, and medical officers of the United States
 2 Department of Veterans Affairs in the discharge of their official
 3 duties in Indiana.
- 4 (4) An individual who is not a licensee who resides in another
 5 state or country and is authorized to practice medicine or
 6 osteopathic medicine there, who is called in for consultation by an
 7 individual licensed to practice medicine or osteopathic medicine
 8 in Indiana.
- 9 (5) A person administering a domestic or family remedy to a
 10 member of the person's family.
- 11 (6) A member of a church practicing the religious tenets of the
 12 church if the member does not make a medical diagnosis,
 13 prescribe or administer drugs or medicines, perform surgical or
 14 physical operations, or assume the title of or profess to be a
 15 physician.
- 16 (7) A school corporation and a school employee who acts under
 17 IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).
- 18 (8) A chiropractor practicing the chiropractor's profession under
 19 IC 25-10 or to an employee of a chiropractor acting under the
 20 direction and supervision of the chiropractor under IC 25-10-1-13.
- 21 (9) A dental hygienist practicing the dental hygienist's profession
 22 under IC 25-13.
- 23 (10) A dentist practicing the dentist's profession under IC 25-14.
- 24 (11) A hearing aid dealer practicing the hearing aid dealer's
 25 profession under IC 25-20.
- 26 (12) A nurse practicing the nurse's profession under IC 25-23.
 27 However, a registered nurse may administer anesthesia if the
 28 registered nurse acts under the direction of and in the immediate
 29 presence of a physician and holds a certificate of completion of a
 30 course in anesthesia approved by the American Association of
 31 Nurse Anesthetists or a course approved by the board.
- 32 (13) An optometrist practicing the optometrist's profession under
 33 IC 25-24.
- 34 (14) A pharmacist practicing the pharmacist's profession under
 35 IC 25-26.
- 36 (15) A physical therapist practicing the physical therapist's
 37 profession under IC 25-27.
- 38 (16) A podiatrist practicing the podiatrist's profession under
 39 IC 25-29.
- 40 (17) A psychologist practicing the psychologist's profession under
 41 IC 25-33.
- 42 (18) A speech-language pathologist or audiologist practicing the

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1 pathologist's or audiologist's profession under IC 25-35.6.

2 (19) An employee of a physician or group of physicians who
 3 performs an act, a duty, or a function that is customarily within
 4 the specific area of practice of the employing physician or group
 5 of physicians, if the act, duty, or function is performed under the
 6 direction and supervision of the employing physician or a
 7 physician of the employing group within whose area of practice
 8 the act, duty, or function falls. An employee may not make a
 9 diagnosis or prescribe a treatment and must report the results of
 10 an examination of a patient conducted by the employee to the
 11 employing physician or the physician of the employing group
 12 under whose supervision the employee is working. An employee
 13 may not administer medication without the specific order of the
 14 employing physician or a physician of the employing group.
 15 Unless an employee is licensed or registered to independently
 16 practice in a profession described in subdivisions (8) through
 17 (17), nothing in this subsection grants the employee independent
 18 practitioner status or the authority to perform patient services in
 19 an independent practice in a profession.

20 (20) A hospital licensed under IC 16-21 or IC 12-25.

21 (21) A health care organization whose members, shareholders, or
 22 partners are individuals, partnerships, corporations, facilities, or
 23 institutions licensed or legally authorized by this state to provide
 24 health care or professional services as:

25 (A) a physician;

26 (B) a psychiatric hospital;

27 (C) a hospital;

28 (D) a health maintenance organization or limited service
 29 health maintenance organization;

30 (E) a health facility;

31 (F) a dentist;

32 (G) a registered or licensed practical nurse;

33 (H) a **certified nurse midwife or a licensed certified
 34 professional midwife;**

35 (I) an optometrist;

36 (J) a podiatrist;

37 (K) a chiropractor;

38 (L) a physical therapist; or

39 (M) a psychologist.

40 (22) A physician assistant practicing the physician assistant's
 41 profession under IC 25-27.5.

42 (23) A physician providing medical treatment under

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1 IC 25-22.5-1-2.1.

2 (b) A person described in subsection (a)(8) through (a)(17) is not
3 excluded from the application of this article if:

- 4 (1) the person performs an act that an Indiana statute does not
5 authorize the person to perform; and
6 (2) the act qualifies in whole or in part as the practice of medicine
7 or osteopathic medicine.

8 (c) An employment or other contractual relationship between an
9 entity described in subsection (a)(20) through (a)(21) and a licensed
10 physician does not constitute the unlawful practice of medicine under
11 this article if the entity does not direct or control independent medical
12 acts, decisions, or judgment of the licensed physician. However, if the
13 direction or control is done by the entity under IC 34-30-15 (or
14 IC 34-4-12.6 before its repeal), the entity is excluded from the
15 application of this article as it relates to the unlawful practice of
16 medicine or osteopathic medicine.

17 (d) This subsection does not apply to a prescription or drug order for
18 a legend drug that is filled or refilled in a pharmacy owned or operated
19 by a hospital licensed under IC 16-21. A physician licensed in Indiana
20 who permits or authorizes a person to fill or refill a prescription or drug
21 order for a legend drug except as authorized in IC 16-42-19-11 through
22 IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A
23 person who violates this subsection commits the unlawful practice of
24 medicine under this chapter.

25 (e) A person described in subsection (a)(7) shall not be authorized
26 to dispense contraceptives or birth control devices.

27 SECTION 8. IC 25-22.5-8-2 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) A person who
29 violates this article by unlawfully practicing medicine or osteopathic
30 medicine commits a Class C felony.

31 ~~(b) A person who practices midwifery without the license required~~
32 ~~under this article commits a Class D felony.~~

33 ~~(c)~~ (b) A person who acts as a physician's assistant without
34 registering with the board as required under this article commits a
35 Class D felony.

36 SECTION 9. IC 25-23-1-1 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this
38 chapter:

- 39 (a) "Board" means the Indiana state board of nursing.
40 (b) "Advanced practice nurse" means:
41 (1) a nurse practitioner;
42 (2) a **certified** nurse midwife; or

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1 (3) a clinical nurse specialist;
 2 who is a registered nurse qualified to practice nursing in a specialty
 3 role based upon the additional knowledge and skill gained through a
 4 formal organized program of study and clinical experience, or the
 5 equivalent as determined by the board, which does not limit but
 6 extends or expands the function of the nurse which may be initiated by
 7 the client or provider in settings that shall include hospital outpatient
 8 clinics and health maintenance organizations.

9 (c) "Human response" means those signs, symptoms, behaviors, and
 10 processes that denote the individual's interaction with the environment.

11 SECTION 10. IC 25-23-1-13.1 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13.1. (a) An applicant
 13 who desires to practice **certified nurse** midwifery shall present to the
 14 board the applicant's license as a registered nurse and a diploma earned
 15 by the applicant from a school of midwifery approved or licensed by
 16 the board or licensing agency for midwives that is located in any state.

17 (b) The applicant shall submit to an examination in **certified nurse**
 18 midwifery prescribed or administered by the board. If the application
 19 and qualifications are approved by the board, the applicant is entitled
 20 to receive a limited license that allows the applicant to practice
 21 midwifery **as a certified nurse midwife**.

22 (c) The board shall adopt rules under IC 25-23-1-7:

23 (1) defining the scope of practice ~~for midwifery~~, **of a certified**
 24 **nurse midwife**; and

25 (2) for implementing this section.

26 SECTION 11. IC 25-23.2 IS ADDED TO THE INDIANA CODE
 27 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2001]:

29 **ARTICLE 23.2. LICENSED CERTIFIED PROFESSIONAL**
 30 **MIDWIVES**

31 **Chapter 1. Definitions**

32 **Sec. 1. The definitions in this chapter apply throughout this**
 33 **article.**

34 **Sec. 2. "Antepartum period" means the period that begins when**
 35 **a woman becomes pregnant and ends when the birthing period**
 36 **begins.**

37 **Sec. 3. "Board" refers to the Indiana midwifery board**
 38 **established by IC 25-23.2-2-1.**

39 **Sec. 4. (a) "Certified professional midwife" or "CPM" means an**
 40 **individual who has completed and passed the credentialing process**
 41 **as administered by the North American Registry of Midwives or a**
 42 **successor organization.**



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- (b) The term does not include any of the following:
 - (1) An individual engaged in the practice of medicine under IC 25-22.5.
 - (2) A certified nurse midwife engaged in the practice of midwifery only under IC 25-23.
 - (3) An individual providing emergency medical services.

Sec. 5. As used in this chapter, "health care professional" means any of the following:

- (1) A licensed physician.
- (2) A licensed dentist.
- (3) A licensed chiropractor.
- (4) A licensed podiatrist.
- (5) A licensed optometrist.
- (6) A nurse licensed under IC 25-23-1.
- (7) A physical therapist licensed under IC 25-27 or a physical therapist's assistant certified under IC 25-27.
- (8) A speech language pathologist or an audiologist licensed under IC 25-35.6-3.
- (9) A speech language pathology aide or an audiology aide (as defined in IC 25-35.6-1-2).
- (10) An:
 - (A) occupational therapist; or
 - (B) occupational therapist assistant; certified under IC 25-23.5.
- (11) A social worker licensed under IC 25-23.6 or a social work assistant.
- (12) A pharmacist licensed under IC 25-26-13.

Sec. 6. "Intrapartum period" means the period that begins when a woman starts labor and ends when the woman gives birth.

Sec. 7. "Licensed certified professional midwife" means a certified professional midwife who is granted a license under this article.

Sec. 8. "Midwifery" means the acts of a person, other than a licensed or certified health care professional acting within the scope of the person's license or certificate, when the person, for compensation, advises, attends, or assists a woman during pregnancy, labor, natural childbirth, and the postpartum period.

Sec. 9. "Postpartum period" means the six (6) week period after a birth.

Chapter 2. Indiana Midwifery Board

Sec. 1. The Indiana midwifery board is established.

Sec. 2. The board consists of seven (7) members appointed by

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the governor as follows:

(1) Four (4) members who are licensed certified professional midwives.

(2) One (1) member who:

(A) has an unlimited license to practice medicine in Indiana; and

(B) practices as a family practitioner, a pediatrician, or an obstetrician.

(3) One (1) member who is an attorney licensed to practice law in Indiana.

(4) One (1) consumer of home birth services.

Sec. 3. (a) The term of each board member is four (4) years.

(b) A board member may be reappointed for not more than three (3) consecutive terms.

(c) A board member serves until the board member's successor is appointed. A vacancy occurring in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term.

(d) The board members shall annually select a chairperson and a vice chairperson from among the board's members.

Sec. 4. (a) The board shall meet at least one (1) time each year, at the call of the chairperson.

(b) Four (4) members of the board constitute a quorum.

(c) The affirmative vote of four (4) members of the board is required for the board to take action.

Sec. 5. The health professions bureau shall provide staff support for the board.

Sec. 6. The board shall do the following:

(1) Establish as a requirement for licensure the certified professional midwife (CPM) credentials developed by the North American Registry of Midwives or a successor organization.

(2) Establish fees for the licensure of certified professional midwives.

(3) Establish annual continuing education requirements for license renewal.

(4) Develop a peer review procedure, using as guidelines the peer review procedures established by:

(A) the Indiana Midwives Association or a successor organization; and

(B) the Midwives Alliance of North America or a successor organization.

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- 1 (5) Prescribe informed consent and other relevant forms.
- 2 (6) Research the availability of liability insurance for licensed
- 3 certified professional midwives and, when the board
- 4 determines that liability insurance is sufficiently available,
- 5 require the purchase of liability insurance as a condition for
- 6 licensure.
- 7 (7) Adopt under IC 4-22-2 rules that define the scope of
- 8 practice for licensed certified professional midwives. Rules
- 9 adopted under this subdivision must limit the practice of
- 10 licensed certified professional midwives to nonhospital
- 11 settings.

12 Sec. 7. The board shall adopt rules under IC 4-22-2 to
 13 administer this article.

14 **Chapter 3. Certified Professional Midwifery Licensing**

15 **Sec. 1. To become a licensed certified professional midwife, an**
 16 **applicant must satisfy the following requirements:**

- 17 (1) Be at least twenty-one (21) years of age.
- 18 (2) Satisfactorily complete educational and practical
- 19 requirements of the CPM credentialing process in accordance
- 20 with the standards of the North American Registry of
- 21 Midwives or a successor organization.
- 22 (3) Acquire and document practical experience as outlined in
- 23 the CPM credentialing process in accordance with the
- 24 standards of the North American Registry of Midwives or a
- 25 successor organization.
- 26 (4) Obtain certification by the American Heart Association in
- 27 adult cardiopulmonary resuscitation.
- 28 (5) Complete the program sponsored by the American Heart
- 29 Association and the American Academy of Pediatrics in
- 30 neonatal resuscitation, excluding endotracheal intubation and
- 31 the administration of drugs.
- 32 (6) Provide proof to the board that the applicant has obtained
- 33 the CPM credential as administered by the North American
- 34 Registry of Midwives or a successor organization.
- 35 (7) Present additional documentation or certifications
- 36 required by the board.

37 **Sec. 2. The board may require an oral interview with the**
 38 **applicant to assess the applicant's fitness to practice midwifery.**

39 **Sec. 3. The board shall grant a license to practice certified**
 40 **professional midwifery to an applicant who satisfies the**
 41 **requirements of section 1 of this chapter.**

42 **Sec. 4. (a) A license issued under this chapter expires three (3)**

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1 years after the date of issuance. Failure to renew a license on or
2 before the expiration date renders the license invalid without any
3 action by the board.

4 (b) The procedures and fees for renewal are set by the board.

5 Sec. 5. The board:

6 (1) shall adopt rules under IC 4-22-2 to set the fees for
7 issuance of a license under this article; and

8 (2) may adopt rules under IC 4-22-2 to set other fees the
9 board considers necessary to administer this article.

10 Sec. 6. Only an individual who is a licensed certified professional
11 midwife under this article may use the title "licensed certified
12 professional midwife".

13 Sec. 7. The board may deny, suspend, or revoke a license issued
14 under this article to an individual who does any of the following:

15 (1) Uses alcohol or drugs to a degree that impairs the
16 individual's practice of midwifery.

17 (2) Engages in unprofessional conduct as defined by the
18 board's rules.

19 (3) Commits an act or makes an omission constituting gross
20 negligence arising from the practice of midwifery.

21 (4) Obtains a certified professional midwifery license through
22 fraud.

23 (5) Violates this article or a rule adopted under this article by
24 the board.

25 Sec. 8. The board shall provide notice and a hearing under
26 IC 4-21.5 to an individual licensed under this article before the
27 board may deny, suspend, or revoke a license under section 7 of
28 this chapter.

29 Sec. 9. The board may impose a civil penalty of not more than
30 five hundred dollars (\$500) upon an individual licensed under this
31 article who commits an act or makes an omission described in
32 section 7 of this chapter.

33 Sec. 10. The board may issue a license to an individual who is
34 licensed as a midwife in another state with requirements that the
35 board determines are at least equal to the licensing requirements
36 of this article.

37 Sec. 11. Except as provided in IC 25-23-1-13.1, an individual
38 who knowingly or intentionally practices midwifery without a
39 license required under this article commits a Class B misdemeanor.

40 Chapter 4. Informed Consent for the Practice of Licensed
41 Certified Professional Midwifery

42 Sec. 1. All of the following must occur before a licensed certified

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professional midwife may accept a client for midwifery care:

- (1) The licensed certified professional midwife must provide the potential client with an informed disclosure of practice form prescribed by the board under section 3 of this chapter.
- (2) The potential client must sign and date the form.
- (3) The licensed certified professional midwife must sign and date the form.
- (4) If the potential client refuses a procedure or treatment required by law, the potential client must so indicate on a separate procedure or treatment form.

Sec. 2. A licensed certified professional midwife may not perform a specific procedure or treatment that is not described on the informed disclosure of practice form described in section 1 of this chapter until both of the following occur:

- (1) The specific procedure or treatment is disclosed to the client in writing on a form separate from the informed disclosure of practice form.
- (2) The client agrees to the procedure by signing the procedure or treatment form.

Sec. 3. (a) The board shall prescribe the form for the informed disclosure of practice.

(b) The informed disclosure of practice form must be in writing and must contain the following information:

- (1) A description of the licensed certified professional midwife's education and training in midwifery, including completion of continuing education courses and participation in the peer review process.
- (2) The licensed certified professional midwife's experience level in the field of midwifery.
- (3) The licensed certified professional midwife's philosophy of practice.
- (4) Antepartum, intrapartum, and postpartum conditions requiring consultation, transfer of care, and transport to a hospital.
- (5) A medical backup plan.
- (6) The services to be provided to the client by the licensed certified professional midwife.
- (7) The licensed certified professional midwife's current licensure status and pertinent legal ramifications.
- (8) A detailed explanation of treatments and procedures.
- (9) A detailed description of the risks and expected benefits of midwifery care.

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(10) Discussion of possible alternative procedures and treatments and the risks and benefits of those procedures and treatments.

(11) The availability of a grievance process in a case in which a client is dissatisfied with the performance of a licensed certified professional midwife.

(12) A statement that under IC 25-23.2-6 a health care provider (as defined in IC 34-18-2-14 or IC 27-12-2-14 before its repeal) may not be held jointly or severally liable for the acts or omissions of a:

- (A) licensed certified professional midwife; and**
- (B) licensed physician who has entered into a collaborative agreement under IC 25-23.2-5 with a licensed certified professional midwife, for the acts or omissions of the licensed physician while the physician assists or collaborates with the licensed certified professional midwife to perform midwifery.**

Sec. 4. A licensed certified professional midwife may not disclose information obtained from a client during a professional consultation except under the following conditions:

- (1) The client or the client's personal representative or guardian provides written consent.**
- (2) The information concerns the commission of a crime or the threat of imminent danger.**
- (3) The client:**
 - (A) is a minor and is the victim of a crime;**
 - (B) brings a cause of action against the midwife;**
 - (C) waives the privilege; or**
 - (D) is seeking emergency care.**
- (4) Any other condition allowed by law.**

Sec. 5. (a) A licensed certified professional midwife shall provide semiannual reports to the board regarding each birth that the licensed certified professional midwife assists. The report must summarize the following:

- (1) Vital statistics, using a statistical form from the Midwives Alliance of North America or a successor organization.**
- (2) Scope of care.**
- (3) Transport information.**
- (4) Physician referral.**

(b) A licensed certified professional midwife may not reveal the identity of the clients referred to in a report under subsection (a).

Sec. 6. (a) Except as provided in subsection (b), a licensed

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1 certified professional midwife may not prescribe, dispense, or
2 administer prescription drugs.

3 (b) A licensed certified professional midwife may administer:

- 4 (1) vitamin K, either orally or through intramuscular
- 5 injection;
- 6 (2) postpartum antihemorrhagic drugs under emergency
- 7 situations;
- 8 (3) local anesthetics;
- 9 (4) oxygen;
- 10 (5) rhogam; and
- 11 (6) prophylactic eye agents.

12 In defining the scope of practice for licensed certified professional
13 midwives under IC 25-23.2-2-6(7), the board may adopt rules
14 specifying the circumstances under which a licensed certified
15 professional midwife may administer the substances listed in this
16 subsection.

17 Chapter 5. Collaborative Plans of Treatment

18 Sec. 1. A licensed certified professional midwife may provide
19 services to an at-risk client (as defined in standards established by
20 the board) under this article during the client's antepartum,
21 intrapartum, and postpartum periods if the licensed certified
22 professional midwife has entered into a collaborative plan of
23 treatment with a physician licensed under IC 25-22.5.

24 Sec. 2. A collaborative plan of treatment under section 1 of this
25 chapter must:

- 26 (1) be in writing; and
- 27 (2) include the following:
 - 28 (A) Provisions stating the circumstances that would
 - 29 require consultation or referral.
 - 30 (B) Provisions stating the circumstances that would
 - 31 require transfer of responsibility for the primary care of
 - 32 the client.
 - 33 (C) Provisions stating the services to be provided by the
 - 34 licensed certified professional midwife and the licensed
 - 35 physician.

36 Chapter 6. Liability of Other Health Care Providers

37 Sec. 1. A health care provider (as defined in IC 34-18-2-14) may
38 not be held jointly or severally liable for the acts or omissions of a
39 licensed certified professional midwife.

40 Sec. 2. (a) This section applies to:

- 41 (1) an employee of a licensed certified professional midwife;
- 42 or

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- (2) a student, an intern, a trainee, or an apprentice who is:**
 - (A) pursuing a course of study to gain licensure under this article; or**
 - (B) accumulating the experience required for licensure under this article;**
- under the supervision of a licensed certified professional midwife.**

(b) A person described in subsection (a) may perform an act, a duty, or a function of midwifery that is customarily within the specific area of practice of the employing licensed certified professional midwife if the act, duty, or function is performed under the direction and supervision of the employing licensed certified professional midwife.

(c) A person described in subsection (a) may not be held jointly or severally liable for the acts or omissions of a licensed certified professional midwife.

Sec. 3. Except for the licensed certified professional midwife who performs midwifery with a physician under a collaborative agreement, a health care provider (as defined in IC 34-18-2-14) may not be held jointly or severally liable for the acts or omissions of a licensed physician, who has entered into a collaborative agreement with a licensed certified professional midwife, for the acts or omissions of the licensed physician while the physician assists or collaborates with the licensed certified professional midwife to perform midwifery.

Chapter 7. Right to Midwifery Services

Sec. 1. Except as otherwise provided by law, an individual is entitled to:

- (1) give birth in the presence of; and**
- (2) receive assistance during the birth process from;**

a midwife.

Sec. 2. This article does not entitle a licensed certified professional midwife:

- (1) to be present during the birth of a child in a hospital; or**
- (2) to provide assistance during the birth process in a hospital.**

SECTION 12. IC 34-6-2-81 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 81. "Certified nurse midwife", for purposes of IC 34-18, has the meaning set forth in ~~IC 34-18-2-19~~ IC 34-18-2-6.5.

SECTION 13. IC 34-18-2-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6.5. "Certified nurse midwife"

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means a registered nurse who holds a limited license to practice midwifery under IC 25-23-1-13.1.

SECTION 14. IC 34-18-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. "Health care provider" means any of the following:

- (1) An individual, a partnership, a limited liability company, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a physician, psychiatric hospital, hospital, health facility, emergency ambulance service (IC 16-18-2-107), dentist, registered or licensed practical nurse, physician assistant, **certified nurse midwife, licensed certified professional midwife**, optometrist, podiatrist, chiropractor, physical therapist, respiratory care practitioner, occupational therapist, psychologist, paramedic, emergency medical technician, or advanced emergency medical technician, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.
- (2) A college, university, or junior college that provides health care to a student, faculty member, or employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.
- (3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.
- (4) A home health agency (as defined in IC 16-27-1-2).
- (5) A health maintenance organization (as defined in IC 27-13-1-19).
- (6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).
- (7) A corporation, limited liability company, partnership, or professional corporation not otherwise qualified under this section that:
 - (A) as one (1) of its functions, provides health care;
 - (B) is organized or registered under state law; and
 - (C) is determined to be eligible for coverage as a health care provider under this article for its health care function.
 Coverage for a health care provider qualified under this subdivision is limited to its health care functions and does not extend to other causes of action.

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1 SECTION 15. IC 34-30-2-99.5 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2001]: **Sec. 99.5. IC 25-23.2-6 (Concerning a**
4 **health care provider who renders care in an emergency to a**
5 **woman under the care of a licensed certified professional midwife).**

6 SECTION 16. IC 34-30-2-99.6 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2001]: **Sec. 99.6. IC 25-23.2-6 (Concerning an**
9 **employee, a student, an intern, a trainee, or an apprentice who**
10 **provides services under the direction or supervision of a licensed**
11 **certified professional midwife).**

12 SECTION 17. IC 34-18-2-19 IS REPEALED [EFFECTIVE JULY
13 1, 2001].

14 SECTION 18. [EFFECTIVE JULY 1, 2001] (a) As used in this
15 SECTION, "board" refers to the Indiana midwifery board
16 established by IC 25-23.2-2-1, as added by this act.

17 (b) Notwithstanding IC 25-23.2-2-2, as added by this act, a
18 member of the board who is appointed under IC 25-23.2-2-2(1), as
19 added by this act, is not required to be licensed under IC 25-23.2,
20 as added by this act. However, a member appointed under
21 IC 25-23.2-2-2, as added by this act, must be a certified
22 professional midwife (as defined in IC 25-23.2-1-4, as added by this
23 act).

24 (c) Notwithstanding IC 25-23.2-2-2, as added by this act, the
25 governor shall appoint the initial members of the board before
26 September 1, 2001, for terms expiring as follows:

27 (1) Two (2) members appointed under IC 25-23.2-2-2(1), as
28 added by this act, and one (1) member appointed under
29 IC 25-23.2-2-2(2), as added by this act, for a term expiring
30 August 31, 2005.

31 (2) One (1) member appointed under IC 25-23.2-2-2(1), as
32 added by this act, and one (1) member appointed under
33 IC 25-23.2-2-2(3), as added by this act, for a term expiring
34 August 31, 2004.

35 (3) One (1) member appointed under IC 25-23.2-2-2(1), as
36 added by this act, and one (1) member appointed under
37 IC 25-23.2-2-2(4), as added by this act, for a term expiring
38 August 31, 2003.

39 (d) This SECTION expires September 1, 2005.

40 SECTION 19. [EFFECTIVE JULY 1, 2001] (a) As used in this
41 SECTION, "office" refers to the office of Medicaid policy and
42 planning established by IC 12-8-6-1.

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1 (b) The office shall provide Medicaid reimbursement to a
2 certified professional midwife who holds a license under
3 IC 25-23.2, as added by this act, for services rendered by the
4 licensed certified professional midwife that the licensed certified
5 professional midwife is authorized to perform under the law.

6 (c) Before July 1, 2002, the office shall seek a waiver from the
7 United States Department of Health and Human Services to allow
8 Medicaid reimbursement for a licensed certified professional
9 midwife who holds a license under IC 25-23.2, as added by this act,
10 for services rendered by the licensed certified professional midwife
11 that the licensed certified professional midwife is authorized to
12 perform under the law.

13 (d) Notwithstanding subsection (b), the office may not provide
14 Medicaid reimbursement for services provided by a licensed
15 certified professional midwife, as described in subsection (c), until:

- 16 (1) the waiver described in subsection (c) is approved; or
- 17 (2) a waiver is not required under federal law.

18 (e) Not later than five (5) days after receiving notice of approval
19 of the waiver requested under subsection (c), the office shall file an
20 affidavit with the governor's office and the budget committee
21 attesting to the fact that the waiver has been approved.

22 (f) The office shall implement subsection (b) not later than
23 ninety (90) days after the governor's office and the budget
24 committee receive the affidavit described in subsection (e).

25 (g) This SECTION expires July 1, 2003.

26 SECTION 20. [EFFECTIVE JULY 1, 2001] (a) Not later than July
27 1, 2002, the Indiana midwifery board, with the assistance of the
28 department of insurance, shall adopt rules under IC 4-22-2 to allow
29 a licensed certified professional midwife who holds a license issued
30 under IC 25-23.2, as added by this act, to receive reimbursement
31 from an insurance company or third party payor for services
32 rendered by the licensed certified professional midwife that the
33 licensed certified professional midwife is authorized to perform
34 under the law.

35 (b) This SECTION expires July 1, 2003.

36 SECTION 21. [EFFECTIVE JULY 1, 2001] A registered nurse
37 who holds a limited license to practice midwifery under
38 IC 25-23-1-13.1 (formerly referred to as a "midwife" before the
39 repeal of IC 34-18-2-19 by this act) shall, beginning on July 1, 2001,
40 be known as a "certified nurse midwife", as provided in
41 IC 34-18-2-6.5, as added by this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1949, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 11, line 3, delete "nominated by the president of the Indiana Midwives" and insert "."

Page 11, delete line 4.

Page 15, line 8, delete "the liability of".

Page 15, line 10, delete "in rendering care in an" and insert "**may not be held jointly or severally liable for the acts or omissions of a:**

(A) licensed certified professional midwife; and

(B) licensed physician who has entered into a collaborative agreement under IC 25-23.2-5 with a licensed certified professional midwife, for the acts or omissions of the licensed physician while the physician assists or collaborates with the licensed certified professional midwife to perform midwifery."

Page 15, delete lines 11 through 16.

Page 16, line 35, delete "Immunity of Health Care Providers Rendering Care" and insert "**Liability of Other Health Care Providers**".

Page 16, delete lines 36 through 42, begin a new paragraph and insert:

"Sec. 1. A health care provider (as defined in IC 34-18-2-14) may not be held jointly or severally liable for the acts or omissions of a licensed certified professional midwife."

Page 17, delete lines 1 through 7.

Page 17, line 8, delete "1. This chapter" and insert "**2. (a) This section**"

Page 17, delete lines 18 through 29, begin a new paragraph and insert:

"(b) A person described in subsection (a) may perform an act, a duty, or a function of midwifery that is customarily within the specific area of practice of the employing licensed certified professional midwife if the act, duty, or function is performed under the direction and supervision of the employing licensed certified professional midwife.

(c) A person described in subsection (a) may not be held jointly or severally liable for the acts or omissions of a licensed certified professional midwife.

Sec. 3. Except for the licensed certified professional midwife



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who performs midwifery with a physician under a collaborative agreement, a health care provider (as defined in IC 34-18-2-14) may not be held jointly or severally liable for the acts or omissions of a licensed physician, who has entered into a collaborative agreement with a licensed certified professional midwife, for the acts or omissions of the licensed physician while the physician assists or collaborates with the licensed certified professional midwife to perform midwifery."

Page 17, line 30, delete "8" and insert "7".

Page 17, between lines 35 and 36, begin a new paragraph and insert:

"Sec. 2. This article does not entitle a licensed certified professional midwife:

- (1) to be present during the birth of a child in a hospital; or**
- (2) to provide assistance during the birth process in a hospital."**

Page 19, line 8, delete "IC 25-23.2-7" and insert "IC 25-23.2-6".

Page 19, line 20, after "act." insert **"However, a member appointed under IC 25-23.2-2-2, as added by this act, must be a certified professional midwife (as defined in IC 25-23.2-1-4, as added by this act)."**

and when so amended that said bill do pass.

(Reference is to HB 1949 as introduced.)

BROWN C, Chair

Committee Vote: yeas 9, nays 4.

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